

This report covers the sixty-third year since probation was first introduced by statute as a penal sanction in New Zealand. The first enactment, the First Offenders Probation Act, 1886, applied, as its title indicates, to first offenders only. It is interesting to note that section 6 of the 1886 Act required Probation Officers "to inquire carefully into the character and offence of every person arrested for any first offence for the purpose of ascertaining whether the accused person may be reasonably expected to reform without imprisonment," and, if satisfied that the best interests of the public and the offender would be preserved by placing him on probation, to recommend accordingly.

In this connection it is of interest to examine the table attached to this report showing the wide range of crimes for which the provisions of the Offenders Probation Act have been used by the Courts. Where the offence is an isolated one indicating a temporary lapse and does not show evidence of calculation or ruthlessness, and where there are signs of genuine contrition, the granting of probation would seem undoubtedly to be the proper and constructive method of dealing with the offender. Each case must necessarily be dealt with according to its particular circumstances, but the penal sanction should, as far as practicable, always be consistent with a due regard for the interests of the offender and the overriding well-being of the community.

The Offenders Probation Act, 1920, does not restrict the application of the provisions of the Act to first offenders. Section 5 defines the duty of a Probation Officer "to make inquiries as to the character and personal history of any person accused or convicted of any offence and to report thereon to the Court." It is further stipulated that it is a special duty, having regard to whether the best interests of the public and the offender would be served by release on probation, to report to the Court whether he recommends probation.

It will be noted that under the later enactment the attention of the Probation Officer is directed to the character and personal record of the offender, and not, as in the earlier enactment, to the offence. The Probation Officer is specially enjoined to have regard to the interests of society and of the offender. This is in accord with modern penal philosophy—viz., that the Court's attention should be directed to the character of the offender, and not solely to the offence.

As a copy of the Probation Officer's report must be made available on request to the accused, who may tender evidence in rebuttal, it is important that only factual information be placed before the Court. In practice the Probation Officer, in addition to taking statements from the accused himself or from his relatives and others, also obtains information relating to the circumstances of the crime and the accused from the police. Probation Officers are enjoined not to confine their reports to matters pertaining to the commission of the offence which may be derogatory to the accused, but to state anything positive in his favour so that the Court may obtain a true and fair picture of his character and antecedent conduct before determining the manner of treatment. Where the question of impaired mentality is involved which might either be mitigating or, on the other hand, suggest that in the interests of society custodial care is necessary, these factors are adverted to.

Two difficulties emerge from time to time in actual practice owing to the peculiar geography of the Dominion and the scattered nature of the towns. One arises from the fact that occasionally an offender is remanded from a distant Court, and the Probation Officer at the place where the sentence is imposed may not be in a position to obtain all the information desired, he being largely dependent on the particulars he can obtain from the police and an interview with the accused. The Act (section 5) places the duty of reporting only when the Probation Officer is so required by the Court, and it often happens that the